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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,702	05/24/2004	Tracey R. Thomas	03292.101970.3	3701

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FITZPATRICK CELLA (AMEX)  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER
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NGUYEN, NGA B

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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08/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/709,702	THOMAS, TRACEY R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nga B. Nguyen	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/28/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 12, 2009 has been entered.
2. Claims 1-19 are pending in this application.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on July 28, 2009 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Response to Arguments/Amendment***

4. Applicant's arguments with respect to claims 1-19 have been fully considered but are moot in view of new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious

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at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saylor et al (hereinafter Saylor), U.S. Patent Application Publication No. 2004/0111370 in view of Crane et al (hereinafter Creane), U.S. Patent No. 7,313,543.

Regarding to claim 1, Saylor discloses a method of encouraging user savings, said method including:

receiving user financial information, in a first computer system from a second computer system connected to the first computer system by a network, wherein the user financial information is received by *(page 17, paragraphs [0158]-[0163], the user registers for a money management account 110, the user provides, account names includes checking, credit, loan, brokerage, savings, information about his direct deposits):*

*(a) prompting the user to enter user savings goal information into the second computer system (page 6, paragraph [0069], the customer indicates during the setup that if there should be insufficient funds in his money management account 110, funds may be transferred first from his discretionary fund account if there are funds available and second from a regular savings account, if there should be insufficient funds from his payroll for a desired deduction, whether a partial payment or no payment should be made toward that deduction; the customer is allowed to decide the priority of his deductions, certain payments may be designated as priority payments);*

(b) prompting the user to enter user debt information and user income information into the second computer system after the user enters the user savings goal information (*page 6, paragraph [0070], the customer is given options and flexibility to add, remove, and update payees 100, each payee has an associated payee account number; page 5, paragraph [0063]-[0064], a paycheck from payroll 102 is deposited directly into a money management account 110*); and

(c) transferring the entered user financial information from the second computer system to the first computer system via a network (*page 17, paragraphs [0158]-[0160], customer registers account with financial institution's web site, the customer registration system hub adds the customer information to the database*);

recommending a payment hierarchy using the received financial information, wherein the payment hierarchy includes at least a portion of the user income allocated to a user savings account and a portion of the user income allocated to the user debt (*figure 3 and page 6, paragraph [0066], customer schedules payments using money management account 110; page 6, paragraph [0069], the customer is allowed to decide the priority of his deductions, certain payments may be designated as priority payments*);

acquiring user income (*page 7, paragraph [0072], the financial institution manages the funds based on instruction provided by the customer, payroll is deposited directly into the money management account, un-retained funds are transferred to the discretionary funds account; payroll divided so that appropriate portions are being*

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*deposited directly into the money management account and the discretionary funds account); and*

transferring at least a portion of the user income, based at least in part upon the payment hierarchy, to a user savings account and a payee (*page 5, paragraph [0064], the payments are automatically calculated, the payees are paid automatically, the remaining funds are automatically transferred to the discretionary fund account 110, which may be a traditional checking account*).

Saylors does not disclose recommending a payment hierarchy is generated by first computer system. However, Crane discloses recommending a payment hierarchy is generated by first computer system (*column 6, lines 5-20, lines 50-60; column 10, lines 40-50, payment hierarchy system is any system configured to divide and prioritize remitted card holder payment based upon pre-established rules for the sequence of distribution of the received funds*). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention to modify Saylors's system to incorporate the features taught by Crane above, for the purpose of automatically recommending the payment hierarchy by the computer system in order to prevent the user from defaulting on any user payment account.

Regarding to claim 2, Saylors further discloses wherein the transferring step includes transferring at least a portion of the user income to the user savings account prior to, during or after transferring user income to the user debt (*page 5, paragraph [0064], the payments are automatically calculated, the payees are paid automatically,*

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*the remaining funds are automatically transferred to the discretionary fund account 112, which may be a traditional checking account).*

Regarding to claim 3, Saylor further discloses wherein the transferring step includes transferring at least a portion of the user income to the user savings account at a predetermined time period, before payment of certain bills, after payment of certain bills, or after random time period (*page 6, paragraph [0066], transferring the money from the money management account 110 to the discretionary fund account every week*).

Regarding to claim 4, Saylor further discloses wherein the transferring step includes transferring at least a portion of the user income to the user savings account based upon user purchase data (*page 5, paragraph [0064], the payments are automatically calculated, the payees are paid automatically, the remaining funds are automatically transferred to the discretionary fund account 110, which may be a traditional checking account*).

Regarding to claim 5, Saylor further discloses wherein the transferring step includes transferring at least a portion of the user income to the user savings account based upon user purchase data, wherein said purchase data includes at least one of dollar amount, percentage of purchase amount, and number of transactions (*figure 3 and page 6, paragraphs [0066]-[0068]*).

Regarding to claim 6, Saylor further discloses wherein the transferring step includes transferring at least a portion of the user income to the user savings account

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after sufficient funds are available in user account, on a certain date, upon a certain amount of funds being transferred to user account, based upon user criteria, based upon user override selection or based upon historic user selections (*page 5, paragraph [0064], the payments are automatically calculated, the payees are paid automatically, the remaining funds are automatically transferred to the discretionary fund account 110, which may be a traditional checking account*).

Regarding to claim 7, Saylor further discloses wherein the transferring step includes transferring at least a portion of the user income to at least one charity (*page 6, paragraphs [0066]-[0067]*).

Regarding to claim 8, Saylor further discloses wherein the transferring step includes transferring at least a portion of the user income to at least one charity based upon the payment hierarchy (*figure 3 and page 6, paragraphs [0066]-[0067]*).

Regarding to claim 9, Saylor further discloses wherein the step of transferring user income includes transferring at least a portion of the user income and payment hierarchy information to an automatic bill payment system (*page 5, paragraph [0061]*).

Regarding to claim 10, Saylor further discloses wherein the step of transferring user income includes transferring at least a portion of the user income and selected payee information to an automatic bill payment system (*page 5, paragraph [0061]*).

Regarding to claim 11, Saylor further discloses the said step of transferring user income includes transferring at least a portion of said user income and payment hierarchy information to an automatic bill payment system, and enabling the user to



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perform at least one of the following: select bills to be paid and to select a date for a bill to be paid (*figure 3 and page 6, paragraph [0070]*).

Regarding to claim 12, Saylors further discloses wherein the step of transferring user income further includes transferring at least a portion of the user income by at least one of: prompting the user to transfer user income, prompting the user to select a particular transfer of funds, providing at least one of cash and negotiable instrument to at least one of the user, a guardian and a third party, withdrawing funds from the user account and depositing funds in a third party account, transferring the user income to a financial instrument, and placing the selected funds in a pooled account (*figure 3 and page 6, paragraph [0070]*).

Regarding to claim 13, Saylors further discloses wherein the step of transferring user income further includes transferring at least a portion of the user income to a financial instrument and sending the financial instrument to the user at predetermined intervals (*page 6, paragraph [0066]-[0068]*).

Regarding to claim 14, Saylors further discloses wherein said step of transferring the user income includes enabling the user to initiate transfer of the user income to the payee (*page 5, paragraph [0064]*).

Regarding to claim 15, Saylors further discloses wherein said user financial information includes user income source information related to a plurality of user income sources (*page 6, paragraph [0068], loan account, payroll account, overflow account*).

Regarding to claim 16, Saylor further discloses wherein said user financial information includes user debt information related to a plurality of user debts to a plurality of payees (*page 6, paragraph [0070], the customer is given options and flexibility to add, remove, and update payees 100, each payee has an associated payee account number*).

Regarding to claim 17, Saylor further discloses wherein recommending the payment hierarchy includes assigning a first priority to the portion of user income allocated to the user savings account and assigning a second priority to the portion of user income allocated to the user debt (*page 7, paragraph [0072], one alternative embodiment could have payroll being deposited directly into the discretionary funds account and funds required to be retained are then transferred to the money management account*).

Regarding to claim 18, Saylor does not disclose wherein the first priority assigned to the portion of user income allocated to the user savings account is greater than the second priority assigned to the portion of user income allocated to the user debt. However, Saylor discloses the customer is allowed to decide the priority of his deductions, certain payments may be designated as priority payments (*page 6, paragraph [0069]*). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention that the user in Saylor's system is allowed to decide the first priority assigned to the portion of user income allocated to the user savings account is greater than the second priority assigned to the portion of user income

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allocated to the user debt, for the purpose of allocating more money to the user saving account.

Claim 19 contain similar limitations found in claim 1 above, therefore, is rejected by the same rationale.

### ***Conclusion***

7. Claims **1-19** are rejected.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702.

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

or

(571) 273-6796 (for informal or draft communication, please label

"PROPOSED" or "DRAFT").

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nga B. Nguyen/

Primary Examiner, Art Unit 3692

July 27, 2009